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Governor

FINANCE AND ADMINISTRATION CABINET
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WILLIAM M. LANDRUM III
Secretary

DANIEL P. BORK
Commissioner

In the matter of:

██████████, INC.

Contact: ██████████
c/o ██████████ PLLC

FINAL RULING NO. 2016-28
July 27, 2016

Tangible Personal Property Ad Valorem Tax Assessments
Tax Years 2009 and 2010

FINAL RULING

The Kentucky Department of Revenue ("Department") currently has outstanding tangible personal property tax assessments against ██████████, Inc. ("Taxpayer") in the amount of \$██████████ plus applicable interest and penalties and less credits for tax years 2009 and 2010 ("Audit Period"). A breakdown of the assessments is shown in the chart below:

Tax Year	Notice #	Tax	Interest July 27, 2016	Penalty July 27, 2016	Credits	Total July 27, 2016
2009	██████████	\$██████████	\$██████████	\$██████████	\$██████████	\$██████████
2010	██████████	\$██████████	\$██████████	\$██████████	\$██████████	\$██████████
	Totals	\$██████████	\$██████████	\$██████████	\$██████████	\$██████████

The Department performed a tangible property tax audit on the Taxpayer for tax years 2009 through 2011. Taxpayer's counsel, ██████████ CPA of ██████████, LLP, subsequently protested certain audit findings in a letter dated ██████████, 2013. The main issue in dispute was the misclassification of recycling equipment, a type of property subject to the state tax only and exempt from local taxation. The Department responded in a

letter to ██████████ dated ██████████, 2015 stating that adjustments had been made to the audit results in the Taxpayer's favor. Revised audit work papers were enclosed along with the revised assessments.

Efforts to contact the Taxpayer's counsel were ignored until ██████████ returned a telephone call on ██████████, 2015. She advised that she no longer represented the Taxpayer and provided its contact information to the Department.

The Department contacted the Taxpayer's current representative, ██████████ ██████████, of ██████████, PLLC, on ██████████, 2015 and advised that the issues in dispute had been resolved in the Taxpayer's favor. Revised audit work papers and the related assessments were forwarded to ██████████ for his review.

Several attempts were made to contact ██████████ to determine whether there were any issues remaining in dispute. ██████████, on ██████████, 2016, advised that he had been very busy and that he had not yet had time to review this case. He advised that he would give the case priority, examine the material sent to him and respond as soon as possible.

██████████ again ignored the Department's several efforts to contact him for updates until ██████████ 2016. The Taxpayer's office manager was contacted and advised of ██████████'s failure to respond to the Department. ██████████ then contacted the Department at the request of the Taxpayer. The Department responded by again sending revised audit work papers and assessments for ██████████'s review. ██████████ was advised to review the work papers and advise as to whether any issues were still in dispute.

██████████ submitted a statement on ██████████, 2016 which was referred back to him for clarification. His statement did not clearly state with specificity the audit results being challenged.

An email was received from ██████████ by the Department on ██████████, 2016 in which he stated that he thought the analysis presented by his predecessor, ██████████ LLP, was "fairly well laid out." No analysis of the revised work papers was offered by ██████████, a request that had been made by the Department on several occasions. The Department once again requested ██████████ review the audit work papers and be specific as to what is in dispute.

██████████ sent another email on ██████████, 2016 advising he would prepare a response in the manner which had been requested. He also asked to have a telephone conference before proceeding in order to discuss the prior period audit and its inclusion in his response.

The Department sent ██████████ an email on ██████████, 2016 in which it offered to hold a telephone conference as had been requested. He was requested to provide a time and a telephone number to call. No response has yet been received.

The Department believes the Taxpayer has been given ample time and opportunity to provide information which could dispute additional audit findings and now therefore deems the audit results conclusive and the resulting assessments due and owing.

This letter is the final ruling of the Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
3. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing

- of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

DEPARTMENT OF REVENUE



Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED